

# NEBRASKA



## Workers' Compensation Court 65<sup>th</sup> Annual Report

**Fiscal Year 2007:**

July 1, 2006 through June 30, 2007



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**Nebraska Workers' Compensation Court**

# **65<sup>th</sup> Annual Report**

**Fiscal Year 2007:**

July 1, 2006 through June 30, 2007



**Laureen K. Van Norman,**  
Presiding Judge

**Michael P. Cavel,**  
Judge

**James R. Coe,**  
Judge

**Ronald L. Brown,**  
Judge

**J. Michael Fitzgerald,**  
Judge

**Michael K. High,**  
Judge

**John R. Hoffert,**  
Judge

**Glenn W. Morton,**  
Court Administrator

**Barbara A. Frank,**  
Clerk of the Court





# STATE OF NEBRASKA WORKERS' COMPENSATION COURT

STATE CAPITOL BUILDING • P.O. BOX 98908 • LINCOLN, NE 68509-8908 • (800) 599-5155 • (402) 471-6468 • <http://www.wcc.ne.gov/>

## Letter of Transmittal

Lincoln, Nebraska  
December 1, 2007

Honorable Michael Heavican  
Chief Justice of the Nebraska Supreme Court

Honorable Dave Heineman  
Governor of Nebraska

Honorable Mike Flood  
Speaker of the Nebraska Legislature

Dear Sirs:

We have the privilege of submitting herewith the Sixty-Fifth Annual Report of the Nebraska Workers' Compensation Court, prepared in accordance with the provisions and requirements of Section 48-166, Revised Statutes of Nebraska.

Very truly yours,  
NEBRASKA WORKERS' COMPENSATION COURT  
By

Laureen K. Van Norman  
Presiding Judge



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# General Information

## History

The Nebraska Workers' Compensation Act was first passed in 1913 and from then until 1917 the Act was administered by the several state district courts. In 1917, the Legislature created the Compensation Division in the Department of Labor and the commissioner of labor was designated compensation commissioner. The 1935 Legislature established the Workers' Compensation Court and transferred Compensation Division functions to the court. The authority and responsibilities of the court are found in Chapter 48, Article 1, of the Revised Statutes of Nebraska. By 1988, the workers' compensation bench had grown to seven judges who hear disputed cases throughout the state.

## Mission

The mission of the Nebraska Workers' Compensation Court is to administer and enforce all provisions of the Nebraska Workers' Compensation Act, except those provisions that are committed to the courts of appellate jurisdiction or as otherwise provided by law.

## Organization

The Nebraska Workers' Compensation Court is composed of seven judges who are initially appointed by the governor and who then remain on the bench for successive six-year terms upon approval of the electorate. Every two years one of the judges is elected as presiding judge by the judges of the court, subject to approval of the Supreme Court. Four judges are officed in the State Capitol in Lincoln and three judges are officed in the Hall of Justice in Omaha. A judge will travel to any county in the state where an accident occurred to hear a disputed case. A case is first heard by a single judge and, if appealed, the case is then heard by a review panel of three judges of the court. The review is based on the record created at the original hearing, and no new evidence may be introduced. The next level of appeal is to the Nebraska Court of Appeals and ultimately a case may go to the Nebraska Supreme Court.

For administrative purposes, the judges and staff of the court are organized into two operating divisions and seven operating sections. The adjudication division, under the direction of the presiding judge, includes the judges and the Office of the Clerk of the Court. The administration division, under the direction of the court administrator, includes the remaining six sections as identified below. The presiding judge is charged with overall responsibility for the functioning of the court, and the court administrator serves as the chief administrative officer for the court.

The *Office of the Clerk of the Court* receives court filings, docket cases, schedules hearings and motions, corresponds with the parties, issues opinions of the court, and provides administrative and secretarial support for the judges of the court.

The *Business and Human Resources Section* is responsible for the business, financial, and personnel functions of the court, and also administers the Second Injury program. Under a federal grant, the section conducts a federal survey of work-related injuries and illnesses and a data collection program for fatal injuries.

The *Legal Section* reviews settlement applications for adequacy and compliance with the law, conducts mediation conferences to facilitate informal resolution of disputes, informs injured workers, employers, and others of their rights and obligations under the law, provides legal advice to court staff, and monitors legislation for potential impact on the workers' compensation



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system. Until January 1, 2008 the section is also authorized to arbitrate disputes between medical providers and insurers regarding the fees owed for medical services in workers' compensation cases.

The ***Coverage and Claims Section*** has responsibilities in three distinct areas. Compliance activities include enforcing insurance coverage requirements and enforcing the claims handling and reporting obligations of insurers and self insurers. Medical services activities include certifying and monitoring managed care plans, administering the independent medical examiner program, revising and maintaining the schedule of medical and hospital fees, and responding to inquiries related to medical issues. Self-insurance activities include reviewing applications for self-insurance, monitoring the financial status and payroll records of self-insured employers, and collecting fees and assessments from self-insured employers.

The ***Vocational Rehabilitation Section*** is responsible for reviewing and approving proposed vocational rehabilitation plans, certifying vocational rehabilitation counselors and job placement specialists, and appointing a vocational rehabilitation counselor if the parties cannot agree on the selection. The progress of injured workers in an approved plan is monitored, and all payments from the Workers' Compensation Trust Fund for plan expenses must be approved by the section.

The ***Public Information Section*** receives and processes all reports of injury and benefit payments, manages the court's records retention schedule, and responds to requests for records and information. The section also supports a toll-free information line, prepares court publications, develops educational workshops, and maintains the court's web site.

The ***Information Technology Section*** is responsible for the computer network, programs, and databases of the court. The section develops and maintains the court's client/server system, develops computer programs and applications, coordinates information technology activities with vendors and other state agencies, and assists other court sections in meeting their goals through the use of technology.

## **Activities in Fiscal Year 2007**

### ***Legislation***

LB 588 from the 2007 session of the Legislature established a Diagnostic Related Group (DRG) In-Patient Hospital Fee Schedule which becomes effective for discharges on and after January 1, 2008. This schedule applies to hospitals located in or within fifteen miles of a Nebraska city of the metropolitan class or primary class and to other hospitals with fifty-one or more licensed beds. An exception exists for services covered by contract as provided in the bill. Charges for services not subject to the DRG fee schedule and not contracted for by the parties will be reimbursed under the schedules of fees adopted by the court. The court is charged with determining the DRG's to be covered by the new DRG fee schedule and with publishing the DRG fee schedule based on criteria established in the bill. LB 588 also requires hospitals, workers' compensation insurers, self-insured employers, and risk management pools to report DRG related claims data to the court in order to facilitate publication of the DRG fee schedule.

### ***Court Rules***

Substantial revisions to the court's Rules of Procedure were adopted at a public hearing on November 16, 2006. Adjudicatory rule changes adopted at the hearing were subsequently approved by the Supreme Court. Rule 3, relating to pleadings, was amended to require service of summons on the Attorney General in all proceedings involving approval or modification of a

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vocational rehabilitation plan. This was necessary to insure adequate representation of the Workers' Compensation Trust Fund in cases involving expenditures from the fund for vocational rehabilitation. A number of changes were also made to the vocational rehabilitation rules, after consultation with private vocational rehabilitation counselors certified by the court. These included elimination of a requirement that the counselor obtain written confirmation from each of the parties on the specific agreed upon services to be provided. This requirement was causing unnecessary delay in the provision of services to injured employees.

### ***Vocational Rehabilitation***

While not requiring a rule change, a new vocational rehabilitation plan form and related instruction sheet have now been adopted after consultation with private vocational rehabilitation counselors certified by the court. This form is used by the counselors in submitting proposed plans for review by the court's vocational rehabilitation specialists. The revised form and instruction sheet will simplify the submission process and document the requirements for plans submitted for review.

### ***Compliance***

As part of its ongoing enforcement efforts the court's compliance unit is now monitoring proof of coverage data to identify employers whose workers' compensation coverage has been canceled or non-renewed. If replacement coverage has not also been reported, then further steps are taken to determine whether coverage continues to be required, and if so, that it is obtained and reported to the court.

### ***Public Information***

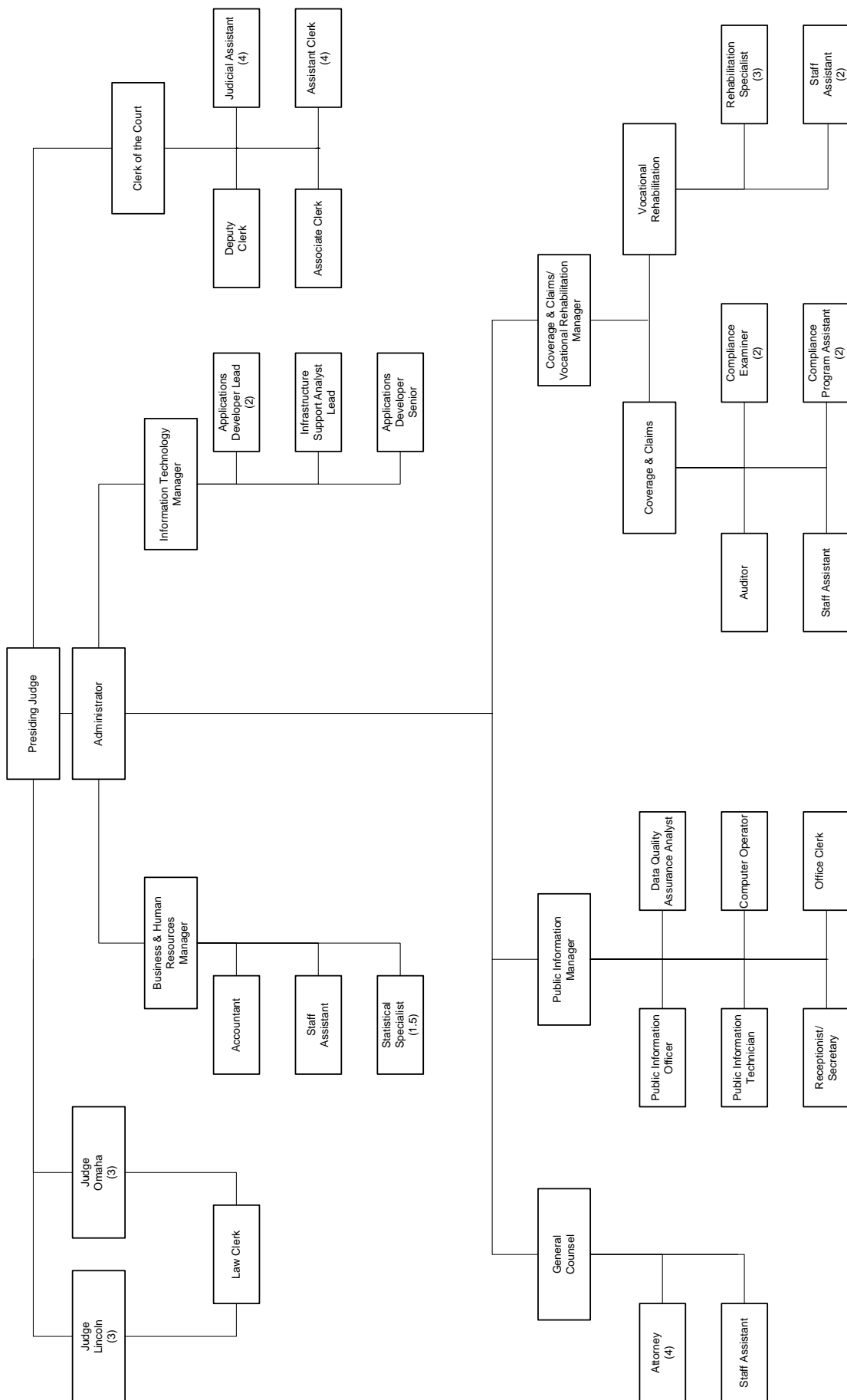
Injured employees are now being notified upon the filing of a first report of injury of basic information regarding their rights and obligations under the workers' compensation laws, and how additional information can be obtained. A web site redesign was also completed in May 2007 to augment the site's navigation menu with a Google-powered search engine and update the overall site layout and color scheme.

### ***Court Technology***

The court has established a broad goal of becoming "paperless" in its operations, including the electronic filing and processing of pleadings and other litigation documents. To this end, the court is in the process of obtaining workflow/business process management software that will be integrated with the court's case and document management system. This software is an important part of the infrastructure necessary to support an electronic working environment. As a first step in implementing electronic filing of litigation documents, the court is considering moving from paper filing of settlement applications to an electronic filing system similar to that used in commercial tax preparation software. Electronic filing of settlement applications would allow the attorneys for the parties to electronically draft, review, and file settlement applications using the court's computer system.

In addition to the specific activities listed above for FY 2007, the court continues to perform other duties on a regular basis as noted above in the "Organization" section. The activities of the court in FY 2007 are described in greater detail in the following pages of this Annual Report, together with basic statistics regarding injuries reported in FY 2007. Additional injury statistics and statistics regarding benefit payments are available in a separate statistical report which can be accessed on the court's website at <http://www.wcc.ne.gov/archives/statisticalreports.htm>.

# NEBRASKA WORKERS' COMPENSATION COURT



REVISED  
September 2007

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# Judges



## **Laureen K. Van Norman, Presiding Judge**

**Office Address:** State Capitol Building, Lincoln NE 68509-8908, phone (402) 471-3924, (800) 599-5155.

**Date Appointed:** July 6, 1993.

**Biography:** Graduate of University of Nebraska–Lincoln (B.A., social work); University of Nebraska College of Law (J.D.). Former Legal Counsel to the Nebraska Department of Labor. Nebraska State Bar Association: past Chair of Government Practice Committee; past member, Executive Board of Women and the Law Section; member, Supreme Court Gender Bias Task Force.

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# Judges



## **Michael P. Cavel, Judge**

**Office Address:** Hall of Justice, 1701 Farnam, Omaha NE 68183-0001, phone (402) 595-3900, (800) 599-5155.

**Date Appointed:** October 5, 1983.

**Biography:** Graduate of Creighton University, Omaha, Neb. (B.A.); Creighton University School of Law (J.D.). United States Army, 1968–71; private practice, 1971–1983; Midlands Big Brother of the Year, 1988.



## **James R. Coe, Judge**

**Office Address:** Hall of Justice, 1701 Farnam, Omaha NE 68183-0001, phone (402) 595-3900, (800) 599-5155.

**Date Appointed:** October 7, 1988.

**Biography:** Graduate of University of Nebraska–Lincoln (B.S. in Business Administration); University of Nebraska College of Law (J.D.). Partner of Carpenter, Rowen, Fitzgerald, and Coe, 1974–1988. Member of West Omaha (Neb.) Rotary Club; president of Dora Bingel Foundation.

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# Judges



## Ronald L. Brown, Judge

**Office Address:** Hall of Justice, 1701 Farnam, Omaha NE 68183-0001, phone (402) 595-3900, (800) 599-5155.

**Date Appointed:** April 8, 1994.

**Biography:** Graduate of Dana College (B.S., cum laude); Creighton University School of Law (J.D.). Former occupations: Douglas County Assistant Public Defender, 1977–1978; Brown Law Offices, P.C., 1979–1989; Brown and Tripp, P.C., 1989–1994. Member of Nebraska State Bar Association, Nebraska Association of Trial Attorneys, Association of Trial Lawyers of America.



## J. Michael Fitzgerald, Judge

**Office Address:** State Capitol Building, Lincoln NE 68509-8908, phone (402) 471-3924, (800) 599-5155.

**Date Appointed:** April 12, 1996.

**Biography:** Graduate of University of Notre Dame (B.S. Business Administration); Georgetown University Law Center (J.D.); Creighton University (Certificate of Completion, Paramedic Training Program). Admitted to practice: Nebraska Supreme Court, United States District Court for the District of Nebraska, United States Court of Appeals for the Eighth Circuit, United States Tax Court. Employee-associate and stockholder partner: Matthews, Kelly, Cannon, and Carpenter, P.C., 1969–1977. Stockholder partner: Carpenter, Fitzgerald, and Coe, P.C., 1978–1983; Miller, Carpenter, Rowen, Fitzgerald, and Coe, P.C., 1983–1987; Carpenter, Rowen, Fitzgerald, and Coe, P.C., 1987–1988; Carpenter, Rowen, and Fitzgerald, P.C., 1988–1996. Member of Nebraska State Bar Association, American Bar Association, American Trial Lawyers Association, Nebraska Trial Lawyers Association, Omaha Bar Association.

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# Judges



## **Michael K. High, Judge**

**Office Address:** State Capitol Building, Lincoln NE 68509-8908, phone (402) 471-3923, (800) 599-5155.

**Date Appointed:** January 8, 1998.

**Biography:** Graduate of University of Nebraska—Lincoln (B.S. in Agricultural Economics (1972); M.A. in Economics (1986)); University of Nebraska College of Law (J.D., 1986). Formerly: farmer and rancher (1972–1982); elected commissioner—Gosper County, Nebraska, Board of Commissioners (1978–1982); private law practice (1986–1998).



## **John R. Hoffert, Judge**

**Office Address:** State Capitol Building, Lincoln NE 68509-8908, phone (402) 471-3923, (800) 599-5155.

**Date Appointed:** October 4, 2001

**Biography:** Graduate of Western Illinois University (B.A., High Honors, Political Science); University of Nebraska College of Law (J.D. with Distinction). Associate/Partner: Knudsen, Berkheimer, Richardson & Endacott, LLP (1980–2001). United States Army (1970-1972). Past member: Legal Services of Southeast Nebraska, Board of Directors; Folsom Children's Zoo and Botanical Gardens, Board of Directors; Nebraska Association of Trial Attorneys; American Judicature Society and American Trial Lawyers Association.



# Compensation Court Cash Fund

## *Fiscal Year 2007 (July 1, 2006 to June 30, 2007)*

The Compensation Court Cash Fund provides for the expense of administering the Nebraska Workers' Compensation Act and for the payment of the salaries and expenses of the personnel of the Nebraska Workers' Compensation Court. The fund was established in 1993 and replaced the use of general funds. The fund is financed by assessments against workers' compensation insurers, risk management pools, and self-insured employers. Contributions to the fund abate for one year whenever the balance of the fund equals or exceeds three times the amount expended and encumbered in the fiscal year just ending. The Nebraska Legislature appropriates a specific sum each year for operations of the Nebraska Workers' Compensation Court, to be funded from the Compensation Court Cash Fund. The appropriation for fiscal year 2007 was \$5,453,559.

<b>BALANCE of fund on July 01, 2006:</b>		\$9,845,230	
<b>Revenue:</b>			
Assessments		5,053,287	
Interest		425,572	
Accounts Receivables Invoiced		387	
Due to Vendor		(2,987)	
Bonds Payable		73	
Operating Transfers In		354,613	
Sale of Surplus Property		571	
Miscellaneous Income		119,415	
Miscellaneous Adjustment		0	
Total Revenue			<u>5,950,931</u>
<b>Expenditures:</b>			
	Appropriation	Not Expended	Actual Expended
Court Administration	4,983,997	1,492,733	3,491,264
Voc. Rehab. Administration	348,909	1,811	347,098
Second Injury Administration	1,249	514	735
Self-Insurance Administration	84,730	4,152	80,578
Federal Grant Administration	34,674	1,635	33,039
Totals	<u>5,453,559</u>	<u>1,500,845</u>	<u>3,952,714</u>
Less Total Expenditures			<u>3,952,714</u>
<b>BALANCE of fund on June 30, 2007:</b>		<u><u>\$11,843,447*</u></u>	

\* Does not include FY 2007 expenditures of \$68,594 paid in FY 2008.

\* Does not include FY 2007 expenditures of \$68,594 paid in FY 2008.



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## Workers' Compensation Statistics Fund

### *Fiscal Year 2007 (July 1, 2006 to June 30, 2007)*

The court conducts a survey of work-related injuries and illnesses and a data collection program for fatal injuries pursuant to a grant from the U.S. Department of Labor—Bureau of Labor Statistics (BLS). The Survey of Occupational Injuries and Illnesses is mandated by the Occupational Safety and Health Act of 1970 (P.L. 91-596), and the court was designated as the agency in Nebraska to conduct this work in a letter of March 25, 1971 from Governor J.J. Exon to Secretary of Labor, J.D. Hudgson. In 1991, the court contracted for the additional responsibilities of conducting the Census of Fatal Occupational Injuries as designated by BLS.

Expenses for administering these two federal grants are split 50/50 between the State of Nebraska and BLS. The state share of expenditures is charged against the Compensation Court Cash Fund, and the federal share is charged against the Workers' Compensation Statistics Fund. Federal monies are requested on a monthly basis and deposited into the Workers' Compensation Statistics Fund. The Nebraska Legislature appropriates a specific sum each year for expenditures from the Workers' Compensation Statistics Fund. The appropriation for fiscal year 2007 was \$35,519.

<b>BALANCE of fund on July 01, 2006:</b>				0
<b>Revenue:</b>				
Intergovernmental Revenue			35,519	
Total Revenue				<u>35,519</u>
<b>Expenditures:</b>				
	Appropriation	Not Expended	Actual Expended	
Federal Grant Admin.	<u>35,519</u>	0	35,519	
Totals	<u>35,519</u>	0	35,519	
Less Total Expenditures				<u>35,519</u>
<b>BALANCE of fund on June 30, 2007:</b>				<u>0</u>

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# Workers' Compensation Trust Fund

## *Fiscal Year 2007 (July 1, 2006 to June 30, 2007)*

The Workers' Compensation Trust Fund was established July 1, 2000 as part of LB 1221 from the 2000 session of the Nebraska Legislature. The purpose of the fund is to make second injury benefit payments in accordance with section 48-128 and vocational rehabilitation benefit payments in accordance with section 48-162.01, and for paying administrative costs relating to the fund. Prior to July 1, 2000 second injury benefits and administrative costs were paid from the Second Injury Fund and vocational rehabilitation benefits and administrative costs were paid from the Vocational Rehabilitation Fund. These two funds were eliminated with the creation of the Workers' Compensation Trust Fund on July 1, 2000. The Workers' Compensation Trust Fund is financed by assessments against workers' compensation insurers, risk management pools, and self-insured employers. Assessments are made whenever the fund is projected to go below the statutory minimum level.

<b>BALANCE of fund on July 01, 2006:</b>	<b>\$3,358,713</b>
<b>Revenue:</b>	
Interest	161,901
Reimbursements	0
Assessments	*4,892,612
Sale of Surplus Property	0
Miscellaneous Adjustment	37
Total Revenue	<u>5,054,550</u>
<b>Expenditures:</b>	
Second Injury Benefits	403,049
Second Injury Admin. Costs	**3,546
Voc. Rehab. Benefits	953,993
Voc. Rehab. Admin. Costs	**351,067
Due to Vendor	8,863
Less Total Expenditures	<u>1,720,518</u>
<b>BALANCE of fund on June 30, 2007:</b>	<b><u>\$6,692,745</u></b>
* Includes amounts received from assessments made in FY 2007 plus an adjustment of \$14,959 on assessments made in prior years.	
** Amounts transferred from the trust fund to the cash fund for estimated administrative costs for the Second Injury and Vocational Rehabilitation programs.	

## ***Workers' Compensation Trust Fund (Transfers and Assessments)***

### **Fiscal Year Ending:**

#### **Assessments:**

June 30, 2007	*4,892,612
June 30, 2006	**\$57
June 30, 2005	**\$234,526
June 30, 2004	\$5,593,038
June 30, 2003	\$0
June 30, 2002	\$0
June 30, 2001	**\$26,965

#### **Transfers:**

July 1, 2000	***\$6,200,991
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\* Includes amounts received from assessments made in FY 2007 plus an adjustment of \$14,959 on assessments made in prior years.

\*\* Adjustment on assessments made in prior years.

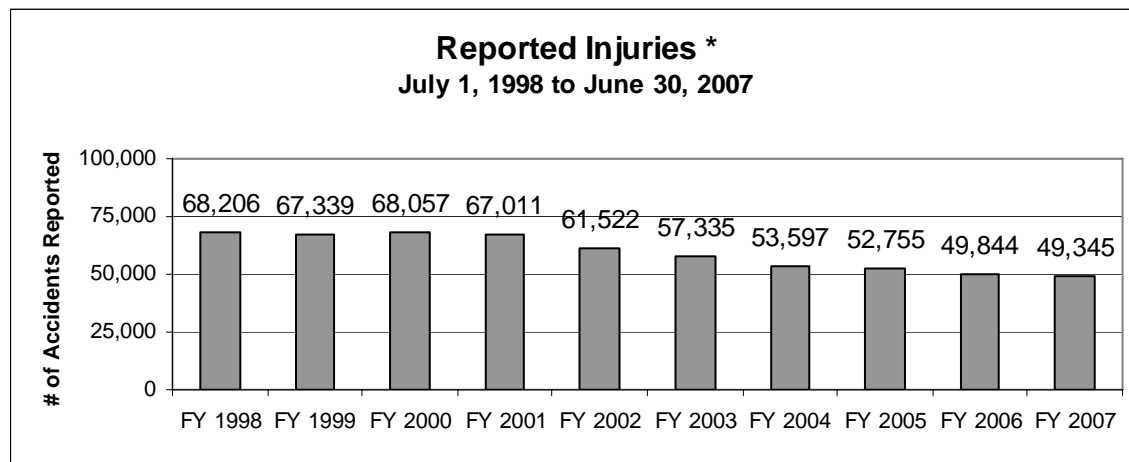
\*\*\* Beginning balance — transfers from Second Injury and Vocational Rehabilitation Funds.

## ***Second Injury & Vocational Rehabilitation Expenditures (Benefit and Administrative Costs)***

<b>Fiscal Year Ending</b>	<b>Second Injury</b>	<b>Vocational Rehabilitation</b>	<b>Total Expenditures</b>
June 30, 2007	\$403,784	\$1,301,091	\$1,704,875
June 30, 2006	\$436,798	\$1,291,376	\$1,728,174
June 30, 2005	\$428,983	\$1,344,549	\$1,773,532
June 30, 2004	\$521,552	\$1,393,172	\$1,914,724
June 30, 2003	\$370,499	\$1,358,530	\$1,729,029
June 30, 2002	\$388,289	\$1,072,261	\$1,460,550
June 30, 2001	\$534,559	\$1,014,519	\$1,549,078
June 30, 2000	\$910,279	\$1,022,765	\$1,933,044
June 30, 1999	\$833,256	\$1,156,770	\$1,990,026
June 30, 1998	\$564,840	\$1,022,226	\$1,587,066

## Reported Injuries \*

	Male	Female	Unknown	Total
July 1, 2006 to June 30, 2007	27,175	18,813	3,357	49,345
July 1, 2005 to June 30, 2006	28,547	18,762	2,535	49,844
July 1, 2004 to June 30, 2005	31,027	20,468	1,260	52,755
July 1, 2003 to June 30, 2004	32,131	20,711	755	53,597
July 1, 2002 to June 30, 2003	32,400	21,312	3,623	57,335
July 1, 2001 to June 30, 2002	35,008	21,503	5,011	61,522
July 1, 2000 to June 30, 2001	39,238	24,100	3,673	67,011
July 1, 1999 to June 30, 2000	41,249	24,544	2,264	68,057
July 1, 1998 to June 30, 1999	41,126	24,734	1,479	67,339
July 1, 1997 to June 30, 1998	43,217	24,549	440	68,206

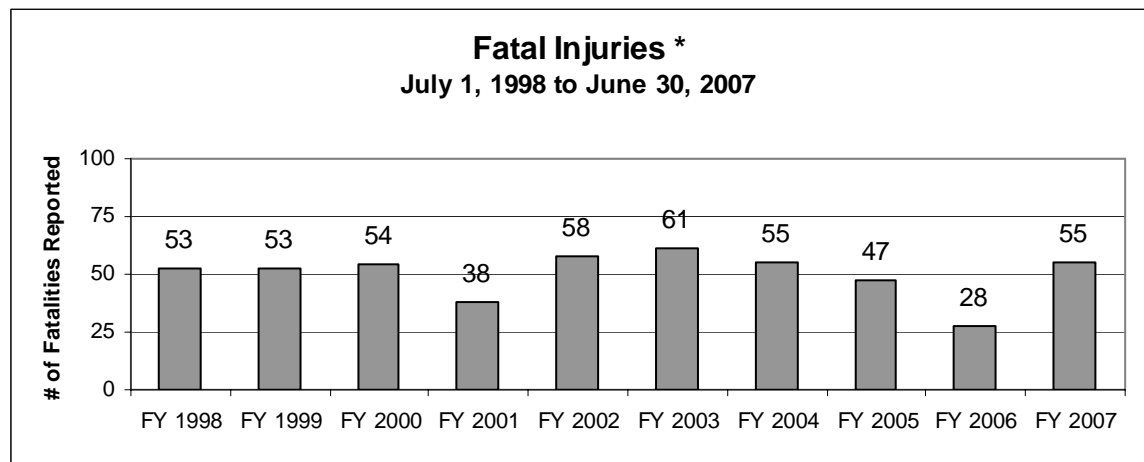


\* Includes injuries reported in FY 2007 regardless of the year in which the injury occurred.

Includes injuries resulting from occupational disease.

## Fatal Injuries \*

	Male	Female	Total
July 1, 2006 to June 30, 2007	51	4	55
July 1, 2005 to June 30, 2006	24	4	28
July 1, 2004 to June 30, 2005	43	4	47
July 1, 2003 to June 30, 2004	48	7	55
July 1, 2002 to June 30, 2003	50	11	61
July 1, 2001 to June 30, 2002	53	5	58
July 1, 2000 to June 30, 2001	38	0	38
July 1, 1999 to June 30, 2000	49	5	54
July 1, 1998 to June 30, 1999	48	5	53
July 1, 1997 to June 30, 1998	49	4	53



\* Includes fatal injuries reported in FY 2007 regardless of the year in which the injury or death occurred.  
Includes deaths resulting from occupational disease.

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## Weekly Income Benefits and Maximum Rates

Under the Nebraska Workers' Compensation Act the basic rule regarding weekly income benefits for total disability is that the employee is entitled to two-thirds of his or her average weekly wage, subject to maximum and minimum levels. Changes in the maximum or minimum rates apply to injuries occurring on or after the effective date, but not to injuries occurring before that date.

The maximum benefit level is set at 100 percent of the state average weekly wage, as determined by the administrator Nebraska Workers' Compensation Court. The calculation excludes federal employees, and is made in accordance with section 48-121.02 of the Nebraska Revised Statutes. The administrator has determined that the state average weekly wage for calendar year 2008 will be \$644.00. This becomes the maximum weekly income benefit for injuries occurring in calendar year 2008. The minimum rate remains at \$49 as provided in section 48-121.01(2).

<b>Maximum/Minimum Compensation Benefits</b>		
<b>Injury Occurring Between:</b>	<b>Maximum</b>	<b>Minimum</b>
1/1/2008 to 12/31/08	\$644	\$49
1/1/2007 to 12/31/07	\$617	\$49
1/1/2006 to 12/31/06	\$600	\$49
1/1/2005 to 12/31/05	\$579	\$49
01/01/04 to 12/31/04	\$562	\$49
01/01/03 to 12/31/03	\$542	\$49
01/01/02 to 12/31/02	\$528	\$49
01/01/01 to 12/31/01	\$508	\$49
01/01/00 to 12/31/00	\$487	\$49
01/01/99 to 12/31/99	\$468	\$49
01/01/98 to 12/31/98	\$444	\$49
01/01/97 to 12/31/97	\$427	\$49
01/01/96 to 12/31/96	\$409	\$49
01/01/95 to 12/31/95	\$350	\$49
06/01/94 to 12/31/94	\$310	\$49
07/01/91 to 05/31/94	\$265	\$49

# Litigated Case Summary <sup>1</sup>

	Original Hearing Level		Review Hearing Level		Supreme Court/ Court of Appeals Level	
<b>Fiscal Year <sup>2</sup></b>	<b>2007</b>	<b>* 2006</b>	<b>2007</b>	<b>* 2006</b>	<b>2007</b>	<b>* 2006</b>
Cases Pending at beginning of Fiscal Year	1,375	1,535	71	80	30	42
Petition or Appeal filed in Fiscal Year	1,235	1,316	120	137	46	59
Reopened	142	125	N/A	N/A	N/A	N/A
<b>Total</b>	<b>2,752</b>	<b>2,976</b>	<b>191</b>	<b>217</b>	<b>76</b>	<b>101</b>
Court Disposition						
Decisions Issued	348	333	89	113	46	41
Settlements	817	782	22	22	1	2
Other Dispositions <sup>3</sup>	372	331	18	12	11	5
<b>Total Dispositions</b>	<b>1,537</b>	<b>1,446</b>	<b>129</b>	<b>147</b>	<b>58</b>	<b>48</b>
<b>Total Pending</b>	<b>1,215</b>	<b>1,530</b>	<b>62</b>	<b>70</b>	<b>18</b>	<b>53</b>

<b>Fiscal Year</b>	<b>2007</b>	<b>* 2006</b>	<b>2005</b>	<b>2004</b>	<b>2003</b>
Number of Motions Filed	2,491	2,496	2,475	2,558	2,646
Number of Motion Dispositions	2,064	2,019	2,114	2,223	2,263
Number of Motion Hearings	880	966	1,094	1,177	1,277

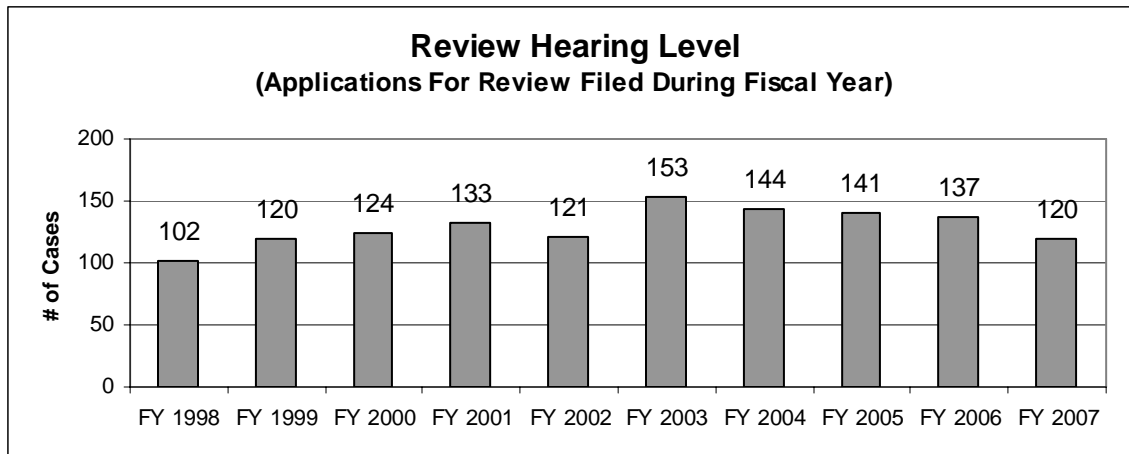
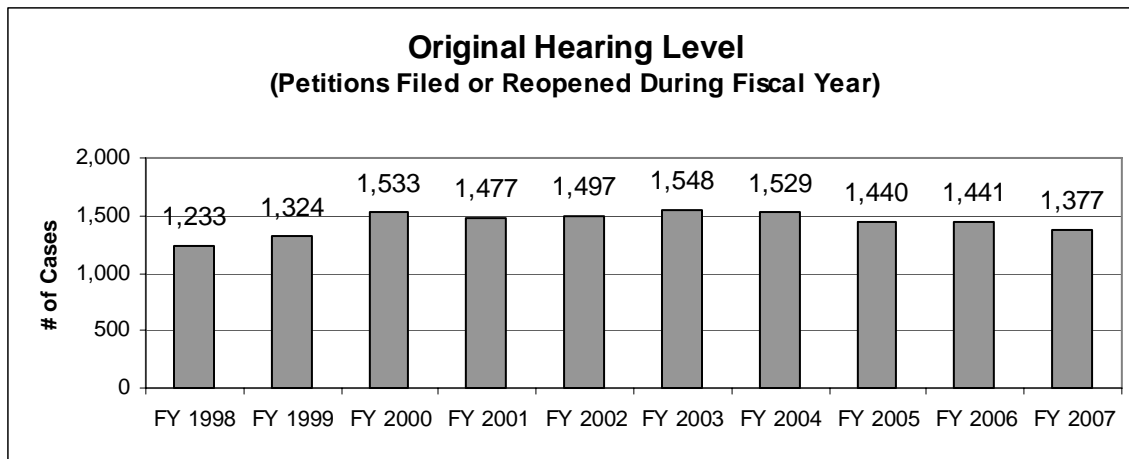
<sup>1</sup> Cases may appear more than once in any year if they are appealed.

<sup>2</sup> Fiscal Years run from July 1 through June 30.

<sup>3</sup> Dismissals without hearings.

\* Numbers for FY 2006 may differ from those shown in the FY 2006 Annual Report due to corrections to data.

## Hearings and Review Hearings



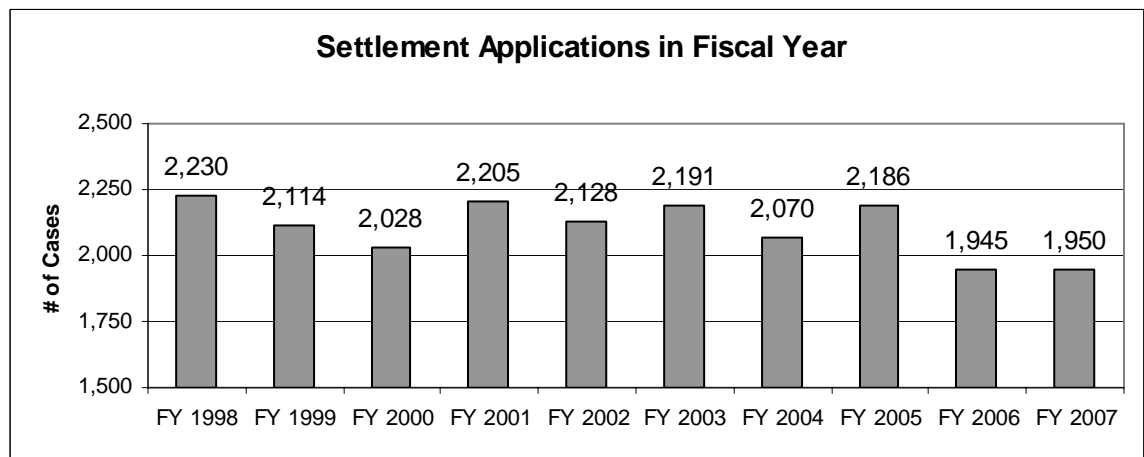


## Summary of Settlements

Fiscal Year <sup>1</sup>	2007	* 2006	2005	2004	2003
<b>Applications</b>					
Applications Pending at Beginning of Fiscal Year	103	132	111	158	142
Applications Made in Fiscal Year	1,950	1,945	2,186	2,070	2,191
<b>Total</b>	<b>2,053</b>	<b>2,077</b>	<b>2,297</b>	<b>2,228</b>	<b>2,333</b>
<b>Dispositions</b>					
Applications Approved Without Litigation	1,057	1,125	1,256	1,326	1,318
Applications Approved at the Original Hearing Level	817	782	856	749	805
Applications Approved at Review Hearing Level	22	22	26	12	15
Applications Approved at the Sup. Ct./Crt. App. Level	1	2	4	5	2
Applications — Total Approved	1,897	1,931	2,142	2,092	2,140
Applications — Total Disapproved	55	43	23	25	35
<b>Total</b>	<b>1,952</b>	<b>1,974</b>	<b>2,165</b>	<b>2,117</b>	<b>2,175</b>
Applications Pending at End of Fiscal Year	101	103	132	111	158

<sup>1</sup> Fiscal years run from July 1 through June 30.

\* Numbers for FY 2006 may differ from those shown in the FY 2006 Annual Report due to corrections to data.



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# Legal

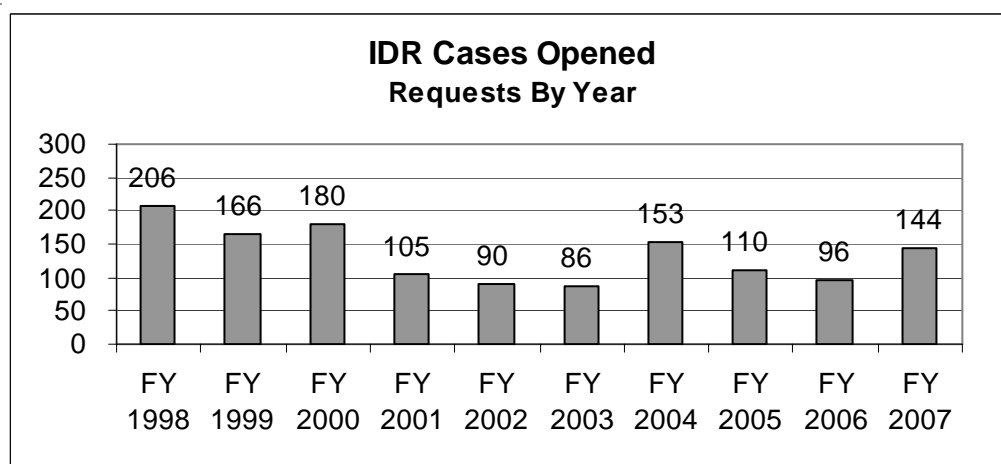
The Legal section of the Nebraska Workers' Compensation Court is responsible for reviewing lump sum settlements, facilitating informal dispute resolution, responding to inquiries from the public, providing legal advice to the court's administrative staff, and monitoring legislation for potential impact on the workers' compensation system. The section includes the court's general counsel, four staff attorneys, and a staff assistant.

Statistics for lump sum settlements processed in FY 2007 (July 1, 2006 through June 30, 2007) are provided on the preceding page. Summaries of the Nebraska Supreme Court and Court of Appeals decisions relating to workers' compensation may be found on the court's web site (<http://www.wcc.ne.gov/archives/casesummary.htm>).

## Informal Dispute Resolution

Informal Dispute Resolution (IDR) is available to anyone with an interest in a workers' compensation dispute. The process is voluntary and the guidelines for IDR are found in Rule 48. It provides a dispute resolution mechanism for health care providers, vocational rehabilitation counselors, and others who would otherwise have no standing before the court. Attorneys may participate, but parties to the dispute do not have to be represented. The court may also order IDR, and disputes involving a change in the treating physician must be submitted for IDR before a motion or petition can be filed. IDR is attempted in all litigated cases in which a party is unrepresented.

The court's IDR process focuses on interest-based mediation. This means that one of the court's professionally trained attorney-mediators assists the parties in reaching a resolution of the dispute that satisfies the underlying interests of the parties. The mediator does not make decisions nor evaluate the case on behalf of either party. Mediation can be an empowering process because it allows the participants to decide the outcome rather than an arbitrator or judge. Many IDR inquiries can be resolved without the need for a mediation conference simply through information and education provided by the mediation coordinator.



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Mediation conferences are conducted by the section's staff attorneys. All of the attorney-mediators are trained in the basic skills of mediation through a nationally recognized 30-hour training program through the Office of Dispute Resolution in Lincoln, Nebraska. Advancement of mediation skills is encouraged, and as opportunities arise the mediators receive additional training.

### ***Closed Cases***

All IDR requests are evaluated to determine whether the issues are appropriate for IDR under workers' compensation laws and rules. Sometimes they are not. In 11 of the 143 cases closed in FY 2007, the parties also came to an agreement while still in the intake process with communication facilitated by court staff. Mediation through the court is voluntary. In 96 cases, or 67 percent of all closed cases, at least one party declined to participate or did not respond to the request. Cases may be closed for a variety of other reasons as shown in the following table.

<b>IDR Cases Closed</b>	
Party(s) Did Not Consent	<b>72</b>
No Response by Party(s)	<b>24</b>
No Agreement	<b>16</b>
Full Agreement	<b>11</b>
Withdrawn/Resolved by Parties	<b>11</b>
Withdrawn/Plaintiff Represented	<b>5</b>
Inappropriate For Mediation	<b>1</b>
Partial Agreement	<b>1</b>
Petition Dismissed	<b>1</b>
Withdrawn/Defendant Represented	<b>1</b>
Total Closed in FY 2007	<b>143</b>

### ***Mediated Cases***

Of the 143 cases closed in FY 2007, 28 met in a mediation conference either in person or over the telephone. Of these mediated cases, 12 (43 percent) reached full or partial agreement.

<b>Outcome of Mediated Cases</b>	
No Agreement	<b>16</b>
Full Agreement	<b>11</b>
Partial Agreement	<b>1</b>
Total Mediated in FY 2007	<b>28</b>

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## Arbitration

During the 2006 legislative session, section 48-168 of the Workers' Compensation Act was amended by LB 489 to provide that until January 1, 2008, the court shall establish procedures for informal dispute resolution and arbitration for a dispute regarding the medical fees owed for services provided pursuant to section 48-120. If the medical provider and the insurer are unable to reach an agreement on the fees to be paid: 1) they may agree to submit the dispute to an attorney staff member of the court for resolution through the informal dispute resolution process and for arbitration, if the dispute is unresolved in the informal dispute resolution process; or 2) the parties may agree to submit the dispute directly to arbitration. The operative date of this statute change was July 14, 2006. As of November 2007, the court had not received any requests for arbitration.



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# Coverage and Claims

This section includes a manager, a workers' compensation auditor, two compliance examiners, two program assistants, and a staff assistant. Section responsibilities are divided into three categories: medical services, compliance, and self-insurance.

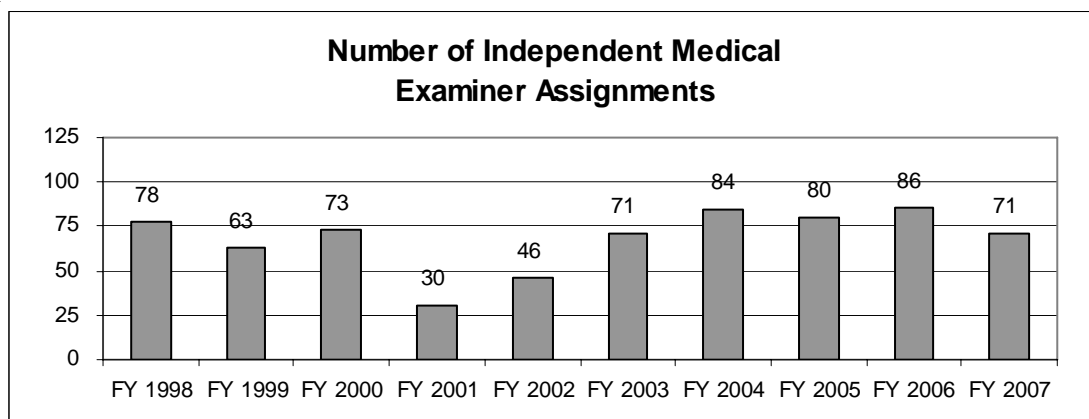
## Medical Services Activities

Section staff respond to inquiries from a variety of sources concerning the application and use of the court's Schedule of Medical and Hospital Fees, the Independent Medical Examiner program, managed care, the choice of physician rule, and other questions relating to medical, surgical, and hospital services under the Nebraska Workers' Compensation Act.

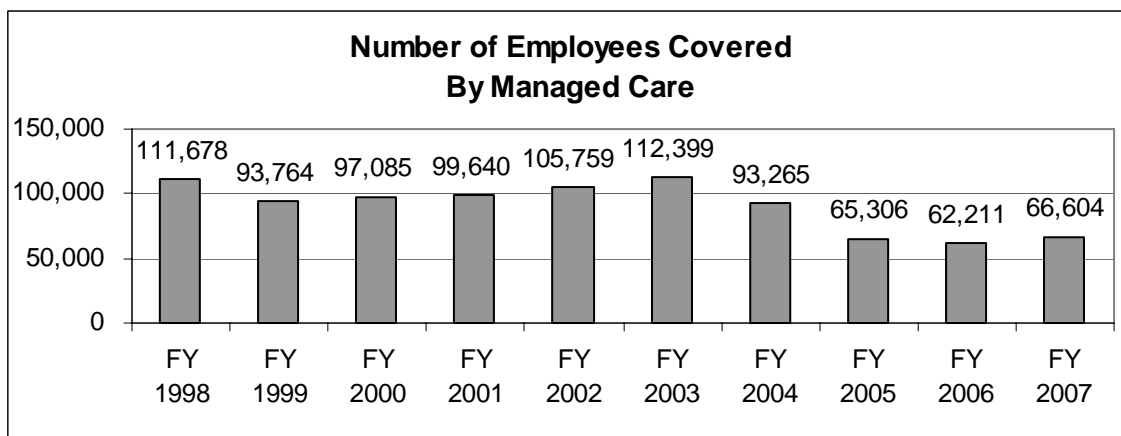
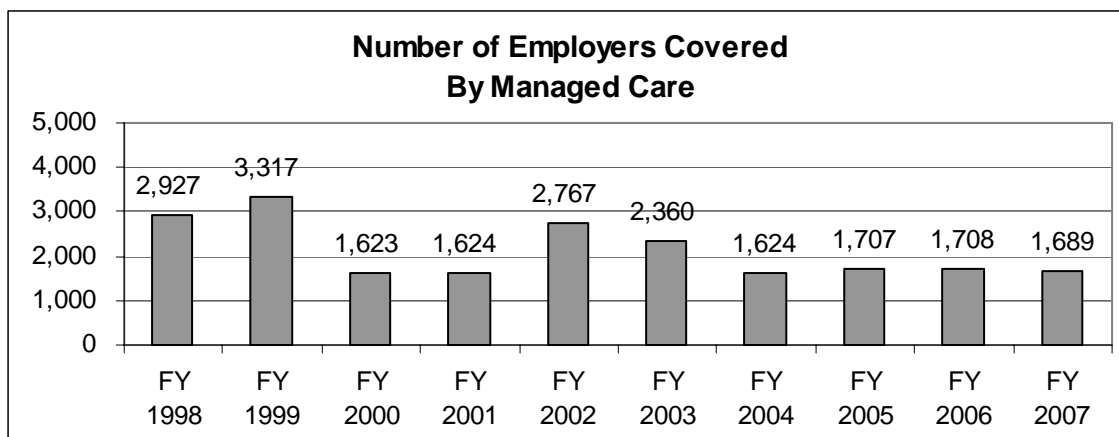
Once a dispute arises regarding the medical condition of the employee or related issues, either side may request a finding by an independent medical examiner. The IME system was designed to give the parties an additional means of resolving disputes outside the judicial process.

To serve as an Independent Medical Examiner for the court, physicians must complete an application and be approved by the judges of the court. Currently there are 141 physicians on the court's list of Independent Medical Examiners.

During FY 2007, 71 IME cases were opened. Forty-two requests for assignment of a physician were filed by an attorney representing an injured employee, six were requested by unrepresented employees, 20 were submitted by a workers' compensation insurer or the insurer's attorney, one was requested by an adjuster, and two were ordered by a judge of the court. Six of the IME requests were conducted by physicians agreed upon by the parties. The graph below shows assignments during the course of the last 10 years.



A table showing current information about managed care plans certified for workers' compensation is available on the court's web site (<http://www.wcc.ne.gov/medical/mcp.pdf>). No new applications were submitted during FY 2007. On June 30, 2007 there were 1,689 employers and 66,604 employees covered by the certified managed care plans. Bar graphs showing the trend in covered employers and employees follow.



## Compliance Activities

One of the primary enforcement activities of the section is to identify employers who do not have insurance coverage as required under the Nebraska Workers' Compensation Act. The section sent 4,028 informational letters to new corporations registering with the Secretary of State during FY 2007. Effective July 1, 2007, section staff began monitoring the court's electronic proof of coverage information for employers whose coverage has been cancelled or non-renewed. When an uninsured employer is identified, compliance examiners first attempt to bring the employer into compliance. If the efforts of the staff do not result in compliance, the case is then referred to the Attorney General's office for further action.

Workers' compensation insurers, risk management pools, and self-insured employers are also required to comply with obligations under the Act, including the obligation to report injuries and payments in accordance with the Act and the court's Rules of Procedure. Coverage and Claims staff enforce those reporting requirements, requesting missing injury reports and monitoring for their receipt, clarifying discrepancies on existing reports and obtaining missing information. The section has devoted an increasing amount of time to the court's Electronic Data Interchange (EDI) initiative. Section staff have worked with Public Information and Information Technology staff on compliance issues, testing, editing for errors, and planning for future EDI activities.

Compliance examiners respond to a large volume of phone inquiries from a variety of sources and on a variety of topics. Topics frequently addressed include: medical issues,

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insurer identification and contact information, benefit calculation, payment explanation, delay in receiving benefits, and general rights and obligations. The examiners recorded 1,047 calls during FY 2007. Often, callers identify situations in which employers are uninsured, injury reports are not being filed, and insurers, employers, or risk management pools are not complying with other obligations under the Act. Staff investigate the specific cases, encourage voluntary compliance, and request appropriate legal action when necessary.

A total of 274 case investigations were opened last fiscal year as a result of the above activities.

## Self-Insurance Activities

The Coverage and Claims section is responsible for reviewing applications from individual employers to self-insure their workers' compensation liability, determining and collecting fees and assessments, and monitoring the employers' continued ability to meet their financial obligations under the Nebraska Workers' Compensation Act. Self-insurance privileges are subject to periodic review and renewal. The Coverage and Claims section initiated a program for periodic on-site audit of payroll records in FY 2002. Thirteen such audits were completed in FY 2007, bringing the total performed to 58. Eleven employers have now been audited twice.

At the beginning of each calendar year, the court calculates and collects from employers self-insured for the prior calendar year the necessary assessments for the state's General Fund, the Compensation Court Cash Fund, and the Workers' Compensation Trust Fund. The assessments are based on the number and classification of employees, payroll, and benefits paid during the previous calendar year. Additional assessments are made for carrying out the Insurance Fraud Act. Because much of the information about self-insurers in Nebraska is kept on a calendar year basis, the statistics reported do not always coincide with the end of the court's fiscal year. It is important to note this distinction in the tables that follow. As of June 30, 2007 there were 49 employers approved for self-insurance. For calendar year 2007 assessment purposes, there were 52 self-insurers (employers who were self-insured for all or part of calendar year 2006). The State of Nebraska is self-insured by statute and is not included in any of the statistics that follow.

### Self-Insured Status By Major Industrial Division

Manufacturing	14
Services	10
Transportation & Public Utilities	9
Government	6
Retail	5
Insurance	3
Wholesale	2
Total Self-Insurers as of 6/30/2007	49



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### Self-Insurance Status By Calendar Year

Calendar Year	# of Self-Insurers	# of Employees	Gross Payroll
2006	52	135,084	\$4,356,488,485
2005	54	129,940	\$4,279,963,006
2004	51	124,762	\$4,038,916,419
2003	52	135,670	\$3,932,199,098
2002	58	135,904	\$3,961,076,218
2001	62	139,419	\$3,914,599,183
2000	62	148,113	\$3,785,487,567
1999	64	136,136	\$3,785,362,521
1998	68	130,134	\$3,908,884,324
1997	76	123,282	\$3,095,073,558

**Note:** 2007 figures not available at time of publication.

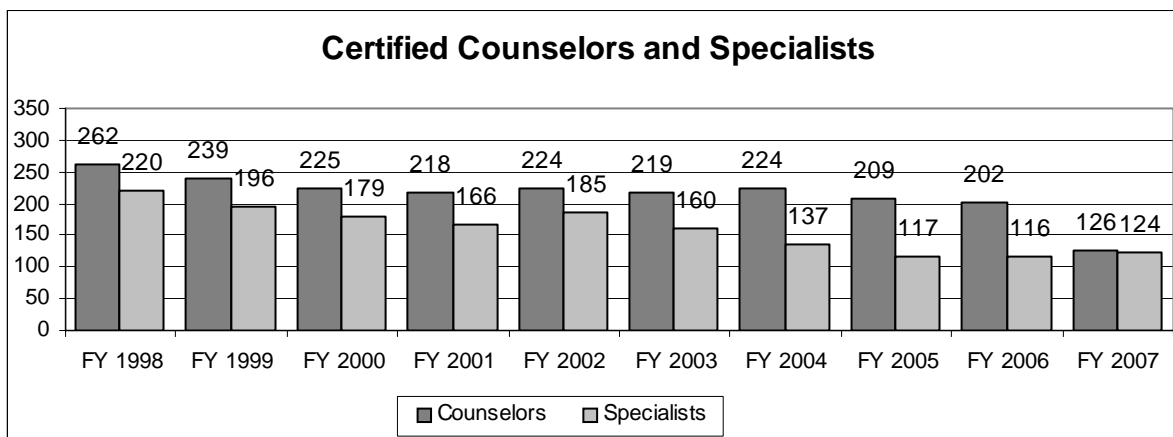
# Vocational Rehabilitation

A manager, three vocational rehabilitation specialists, and two support staff are responsible for duties associated with vocational rehabilitation services to which an employee may be entitled under the Nebraska Workers' Compensation Act. The goal of vocational rehabilitation is to return an injured worker to suitable, gainful employment after an injury covered under the Act. A wide variety of services are available under the Act, from coordinating return to the pre-injury job with the employer to a period of formal retraining.

The duties of the section can be divided into three broad categories: certifying vocational rehabilitation counselors and job placement specialists, appointing counselors when parties cannot agree, and reviewing, approving, and monitoring vocational rehabilitation plans.

## Certification of Counselors and Specialists

Vocational rehabilitation services under the Act can only be provided by individuals who have been certified by the court. Rules 39–41 contain the requirements for certification. On June 30, 2007 there were 126 private vocational rehabilitation counselors and 124 job placement specialists certified by the court. There are 54 certified private vocational rehabilitation counselors located in Nebraska. It should be noted that, by court rule, vocational rehabilitation counselors and job placement specialists employed by a state agency and not working as private vocational service providers are no longer considered certified vocational rehabilitation counselors for workers' compensation purposes. However, they continue to be considered certified job placement specialists.



## Appointment of Counselors

When an injured worker claims entitlement to vocational rehabilitation services, the employee and the employer (or the employer's workers' compensation insurer) must try to agree on a vocational rehabilitation counselor to evaluate the employee and provide needed services. If they cannot agree, one of them can ask the court to appoint a counselor from the directory. If notice of agreement to a counselor or a request for appointment of a counselor is filed with the court, a vocational rehabilitation case is established. Of the 603 cases opened in FY 2007, the court appointed 152 counselors from its directory and the parties were able to agree upon a counselor in 448 cases. Three requests for appointment of a counselor were denied or withdrawn.

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At the end of FY 2007 (June 30, 2007) there were 745 open vocational rehabilitation cases. A total of 625 cases were closed for a variety of reasons during FY 2007 (training completed, employee returned to work, claim settled, etc.).

## Vocational Rehabilitation Plans

Once it is determined that an employee may be entitled to vocational rehabilitation services in order to return to suitable, gainful employment the employee is evaluated and, if necessary, a vocational rehabilitation plan is developed. The level of services to be provided is based on a hierarchy outlined in Section 48-162.01 of the Nebraska Workers' Compensation Act. These services range from coordinating a return to the pre-injury job with the pre-injury employer to a plan of formal retraining.

A vocational rehabilitation plan of some type is involved in many of the cases monitored by the section. The following chart shows the number and type of plans closed during FY 2007. A total of 317 plans had start dates in FY 2007 and currently there are 198 plans being monitored on open cases.

### Type of Vocational Plan

Job Placement	137
Associate Degree	99
Certificate/Other Training	39
General Education Diploma (GED)	28
English as Second Language (ESL)	22
Seminar/Remedial	4
On-The-Job Training (OJT)	3
Bachelor's or Other Advanced Degree	2
Total Vocational Plans Closed in FY 2007	334

When an employee is in a court-approved vocational rehabilitation plan, the following costs are paid by the Workers' Compensation Trust Fund administered by the court: tuition, books, tools, other appropriate fees and costs, and board, lodging, and/or travel in some circumstances. In addition, salaries, other benefits, and expenses incurred by the court for the purposes of vocational rehabilitation are paid from the fund. Total disbursements from the trust fund for vocational rehabilitation purposes are shown in Section 1, page 12 of this Annual Report.

Vocational rehabilitation counselor fees for the evaluation of the employee, development and implementation of a vocational rehabilitation plan, and preparation of a loss of earning power evaluation are paid by the employer or workers' compensation insurer. This also includes charges by job placement specialists or interpreters, if necessary. The employer or insurer is also responsible for temporary disability benefits while the employee is undergoing vocational rehabilitation.

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# Public Information

The court's Public Information section exists for three purposes.

- To educate the public regarding Nebraska workers' compensation law and procedural rules. Public Information staff respond to inquiries received on the court's toll-free information line and email help desk, and also disseminate information by means of the court's web site, publications, workshops, and seminars. Injured employees are also notified upon the filing of a first report of injury of basic information regarding their rights and obligations under the workers' compensation system.
- To provide access to public records maintained by the court.
- To process and analyze injury and payment reports filed electronically and on paper by the court's trading partners, including insurers, risk management pools, and self insured employers. Public Information staff also administer access to a secure Internet claims search application to assist trading partners in complying with their reporting responsibilities.

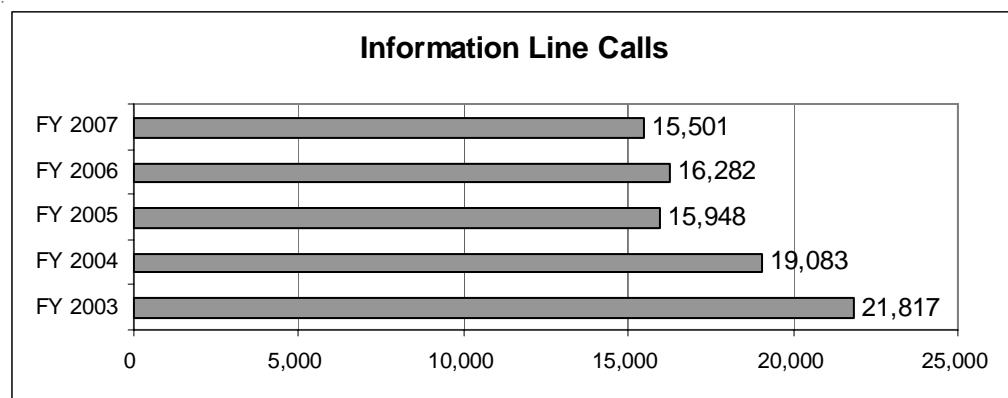
Providing these services requires seven full-time staff members: a manager, two public information specialists, a data quality assurance analyst, a computer operator, a receptionist/secretary, and an office clerk.

## Education

### *Information Line*

The court's toll-free information line enables the court to serve the public more efficiently and saves the cost of long-distance calling. Public information specialists assist callers from 8:00 a.m. to 5:00 p.m, Monday through Friday. After hours and during weekends and holidays, callers receive instructions to leave a message so that a specialist can return the call on the next working day.

The specialists provide answers to commonly asked questions or research inquiries for a response, usually within 24 hours. Calls can also be transferred to other court sections for more information. Court staff do not provide opinions, guesses, or legal advice.



The information line received 15,501 calls in FY 2007, an average of 298.1 calls per week or 62.5 calls per working day. This is a 4.8 percent decrease from FY 2006. Increased use of the court's web site and email help desk may have contributed to the decrease in calls.

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Calls come from employees, attorneys, employers, insurers, medical and vocational rehabilitation providers, and others in Nebraska and throughout the nation.

### **Web site**

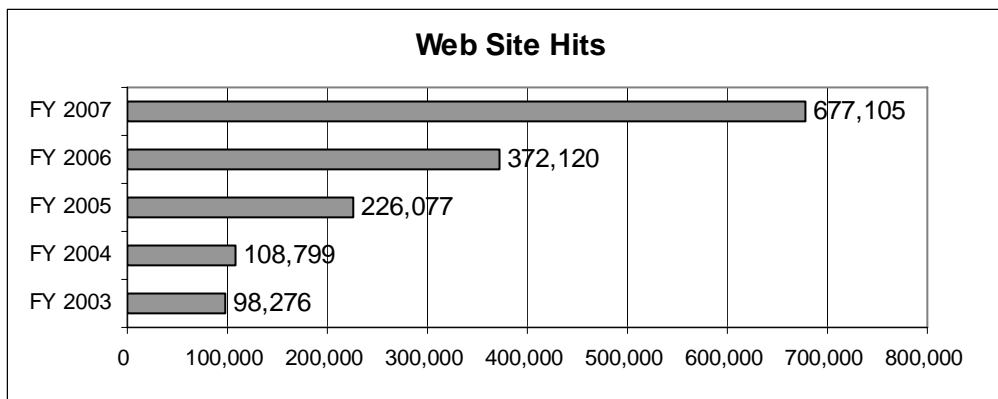
Public Information staff develop and maintain the court's web site (<http://www.wcc.ne.gov/>). The site has been steadily upgraded since its inception in 1996 to better serve the public and make use of ever-improving technology:

- A web site redesign was completed in May 2007 to augment the site's navigation menu with a Google-powered search engine and update the overall site layout and color scheme.
- An RSS (Really Simple Syndication) News Feed makes the latest court news available in a variety of formats. In addition to viewing or printing the contents of the news feed from the web site, the public may subscribe to receive broadcasts of court news directly into their third-party news readers (news aggregators).
- The public can view the web site, download its contents, and operate its electronic forms using any standard web browser or any internet-enabled mobile/handheld device, such as cellular telephones and portable digital assistants (PDA).
- To help make the web site accessible to people with disabilities, the court maintains 'AAA' Compliance with the Web Content Accessibility Guidelines of the World Wide Web Consortium (WCAG/W3C). These guidelines meet or exceed all Section 508 Accessibility Guidelines.
- The web site's electronic forms use Secure Socket Layer (SSL) technology to help protect transmitted information from interception by internet hackers.
- The court's publications and forms are available in portable document format (PDF) and may be downloaded at no charge from the web site.
- The web site also features an electronic Public Records Request form, a searchable Decisions and Orders Database, and Benefit Calculators.

In FY 2007, the web site received 677,105 hits, an 82 percent increase from FY 2006. During the past five years, traffic on the web site has increased 589 percent from FY 2003's total of 98,276 hits. The web site's server host, Nebraska.gov, gathers these statistics and it should be noted that these statistics do not include hits to our site from State of Nebraska agencies.

Of the web site activity tracked in FY 2007, the following webpages and downloadable files were most popular:

- The RSS News Feed had 141,539 hits (21 percent of all web site hits).
- The Schedule of Medical and Hospital Fees, available electronically as a free download in a variety of formats, had 64,961 hits (9.6 percent of all web site hits).
- The Frequently Asked Questions page had 44,914 hits (6.6 percent of all web site hits).
- The Rules of Procedure, available electronically as a pdf document, had 40,759 hits (6 percent of all web site hits).
- The Calls and Opinions page had 34,677 hits (5.1 percent of all web site hits).



Other web site activity in FY 2007 included requests for information and services that were transmitted to the court's email help desk from the site's secure electronic forms. Not including requests for records, which are addressed on Page 32, Public Information staff responded to 1,562 such requests.

## ***Publications***

The Public Information section produces and maintains an inventory of the following court publications. Public Information staff work with other sections of the court to assist with issues of content, editing and style. After design and layout tasks are performed, Public Information staff deliver the finished documents for printing and publish them on the court web site.

- Annual Report
- Statistical Report
- Rules of Procedure
- Bulletin (*newsletter of the court*)
- Schedule of Medical and Hospital Fees
- EDI First Report of Injury Implementation Guide
- EDI Subsequent Report of Injury Implementation Guide
- EDI Proof of Coverage Implementation Guide
- Rights & Obligations (*also available in Spanish*)
- Choosing a Doctor for a Work-Related Injury (*also available in Spanish*)
- Vocational Rehabilitation Services (*also available in Spanish*)
- Informal Dispute Resolution and Mediation
- Information for Claimants Not Represented by an Attorney

The section also produces and maintains a number of forms used for insurance coverage, medical and vocational rehabilitation purposes, reporting workers' compensation injuries and payments, and requesting records. A complete listing of available publications and forms may be found on the court web site (<http://www.wcc.ne.gov/pubs.htm>). Most of the forms are in Portable Document Format (PDF) and may be downloaded, completed electronically, then printed and mailed to the Nebraska Workers' Compensation Court,

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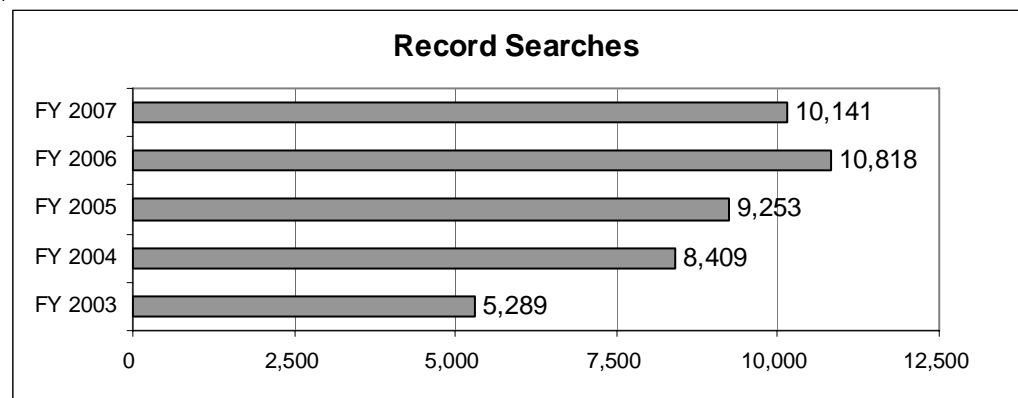
P.O. Box 98908, Lincoln NE 68509-8908. The record request form is entirely electronic and may be completed and submitted online.

### ***Workshops and Seminars***

Public Information staff assist with planning, preparing, and conducting informational workshops and seminars presented by the court. During FY 2007, court staff have presented information to more than 475 people in five workshops and seminars.

## **Record Searches**

One of the most common requests from the public are for record searches regarding injuries to an individual employee. Public Information staff fulfilled 10,141 requests for such records in FY 2007, a 6.3 percent decrease from FY 2006. Of the record requests fulfilled in FY 2007, 8,487 (83.7 percent of all requests) were fulfilled by means of electronic mail or electronic fax. Five-year searches of first and subsequent reports are fulfilled at no charge if sufficient information is provided to promptly identify the records. Public Information staff fulfill most record requests within four business days.



## **Data Processing and Analysis**

Public Information staff processed 59,362 first reports and 93,238 subsequent reports in FY 2007. At the time of publication, 99.2 percent of all first reports and 99.7 percent of all subsequent reports are filed electronically using Electronic Data Interchange (EDI). Public Information staff process the electronic reports and also code and manually enter the remaining paper reports. Once processed, the data quality assurance analyst examines and maintains the data for statistical purposes. Section staff maintain a database of court-approved EDI trading partners to assist with data quality assurance duties.

Public information staff also administer access to a secure Internet application, hosted by the Office of the Nebraska Chief Information Officer on the "MyNebraska" Portal. Since July 2002, the "WCC—Search Claims" application has been available to help the court's trading partners to file accurate subsequent reports by providing them with access to basic claims information. Section staff maintain a database of court-approved application users and provide basic troubleshooting services when problems arise. At the time of publication, 221 external users from 59 of the court's 154 trading partners are approved for access to this application.



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# Information Technology

The Information Technology section of the Nebraska Workers' Compensation Court is responsible for the administration and maintenance of the court's computer systems and network. This includes the court's databases relating to reports of injury, benefit payments, vocational rehabilitation, and adjudication, which are maintained in Oracle. The court has implemented systems for exchanging information through Electronic Data Interchange (EDI). The court also takes advantage of Internet access to Secretary of State information related to corporation and business records. Providing these services requires a manager, four full-time staff members, and one half-time technical support member.

## Fiscal Year Activities

Ending June 30, 2007, the court completed its 10th full year of managing data on its client/server system, which utilizes an Oracle database. The database currently contains 12 full years' worth of information, going back to calendar year 1996 for reports of injury. Historical injury-related information is also maintained for purposes of performing cross-year statistical analysis. During the 10-year time frame the section has developed and maintains 377 program units: 299 in Oracle Forms/Reports, 27 in Micro Focus Cobol, and 78 in Borland/CodeGear Delphi. The section also provides support for an Oracle adhoc reporting tool used by 22 court staff members for producing reports and data extracts from the database.

The court has set a goal of being "paperless" in its operations, and the court information technology plan and court strategic plan are structured to achieve that goal. The section has been implementing technology to this end. The court is in the process of obtaining Workflow/Business Process Management (BPM) software that will be integrated with the court's Unified Case/Document/Message Management system. The incorporation of this software will bring the court closer to the completion of its infrastructure necessary to support the business lines of the court and the goal of a "paperless" court. An attempt at a request for proposal (RFP) ended in a no-award being issued. The RFP will be reissued in fiscal year 2008.

The court continued development of a new Vocational Rehabilitation Services Provider Management system. The system is scheduled to go live the first quarter of the fiscal year 2008. The next phase will cover Vocational Rehabilitation Services Case Management.

The court began work on settlement re-engineering that will carry over into fiscal years 2008 and 2009.

The court completed work on Phase Two of the Proof of Coverage (POC) system by incorporating coverage data from self-insured employers and risk management pools. The court now has a comprehensive database of coverage reported by workers' compensation insurers, self-insured employers, and pools. Development work has begun on providing a public Internet application to look up coverage for employers.

Information Technology, in association with Coverage and Claims staff, determined it was technically feasible to monitor the court's Proof of Coverage database for employers who may have dropped workers' compensation coverage. During the last quarter of the fiscal year a Cancel/Non-Renewal system was designed, tested, and developed for implementation on July 1, 2007.





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# Nebraska Occupational Injury and Illness Survey — 2006

## Occupational Safety and Health Act

The Occupational Safety and Health Act of 1970 (OSHA) became an official part of the nation's labor laws in 1971. With its passage, Congress declared its intent “. . . to assure as far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources.”

Under this Act, employers are required to keep records of all work-related deaths, any diagnosed occupational illnesses and any occupational injuries which involve loss of consciousness, restriction of work or motion, transfer to another job, or requires medical treatment beyond first aid. Employers with more than 10 workers are required to maintain a log and summary of occupational injuries and illnesses (OSHA No. 300) and a supplementary record (OSHA No. 301)<sup>1</sup> of each occurrence within the calendar year. These records are retained at the work site for five years and must be available for inspection by representatives of the U.S. Department of Labor and the U.S. Department of Health and Human Services. Employers with less than 11 employees and those employers who conduct business in one of the low hazard industries specified by OSHA are generally exempt from these recordkeeping requirements unless they are notified of the necessity to maintain these records for a given year for statistical purposes.

## 2006 Occupational Injury and Illness Survey

In order to measure and evaluate the efforts in reducing work-related injuries and illnesses, a standardized system to collect, compile and analyze the health and safety statistics was established and implemented. This standardized system enables data users to identify those industries that need improvement, furthers monitoring and education programs, and allows employers to compare their incidence rates with other employers in the same industry.

The Nebraska Workers' Compensation Court has cooperated with the U.S. Department of Labor and the Bureau of Labor Statistics since 1971 in conducting an annual survey of Nebraska employers which has provided these essential work injury and illness statistics. The 2006 sample surveyed 3,700 employing units in the state.

**Note on industry and occupation classifications:** Beginning with the 2003 reference year, the Occupational Injury and Illness Survey began using the 2002 North American Industry Classification System (NAICS) for industries and the Standard Occupational Classification (SOC) system for occupations. Prior to 2003, the program used the Standard Industrial Classification (SIC) system and the Bureau of the Census occupational classification system. Because of the substantial differences between the current and previous systems, the results by industry and occupation in 2003 constitute a break in series, and users are advised against making comparisons between the 2003 industry and occupation categories and the results for previous years.

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Information regarding the survey and the results of the Occupational Injury and Illness Survey for 2006 is available on the court's web site (<http://www.wcc.ne.gov/archives/osh-cfoi.htm>).

<sup>1</sup>In the State of Nebraska the Workers' Compensation Form 1 — First Report of Alleged Occupational Injury or Illness, may be used in place of the OSHA No. 301 form.

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# Census of Fatal Occupational Injuries (CFOI) — 2006

The Census of Fatal Occupational Injuries (CFOI) Program was developed by the U.S. Department of Labor, Bureau of Labor Statistics (BLS) to provide a timely and accessible census of work-related fatalities. The CFOI program is a federal/state cooperative program. In Nebraska, CFOI is conducted by the Nebraska Workers' Compensation Court. This is the 15<sup>th</sup> year that CFOI has been conducted in all 50 states and the District of Columbia.

## 2006 Census of Fatal Occupational Injuries

CFOI 2006 used multiple data sources including death certificates, workers' compensation reports, medical examiner reports, and other available federal and state administrative records, to compile a complete, verifiable count of Nebraska fatal workplace injuries. The census covers all traumatic occupational fatalities, including those resulting from injuries to the self-employed, laborers on small farms, government workers, and others too difficult to identify from a single data source.

Besides comprehensive counts of fatal work injuries, the 2006 census provides information on the demographic characteristics of the deceased workers (including age, gender, and race), the occupations and industries the decedents worked in and the circumstances of their tragedies. This wealth of information on hazards in Nebraska workplaces yields vital insights to aid in preventing future workplace fatalities. Safety and health researchers are able to study patterns of fatal work injuries, identify hazardous activities and equipment, and alert workers to these dangers.

## 2006 Census Results

The Nebraska Census of Fatal Occupational Injuries recorded 57 fatal workplace injuries during 2006, up from 36 the previous year. Other findings of the census include:

- Contact with objects and equipment were the leading fatal event, accounting for 19 (33 percent) of fatal occupational injuries in 2006. Transportation followed with 17 (30 percent) and falls contributed seven (12 percent).
- Among industry groups, the largest number of fatal work injuries was in agriculture, forestry, fishing and hunting with 21 deaths (37 percent). Trade, transportation, and utilities followed with eight deaths (14 percent) along with the construction industry, which had seven deaths (12 percent).
- Twenty-one (37 percent) of those fatally injured were 65 years and older, another 11 (19 percent) were 35 – 44 years of age, and 10 (18 percent) were 45 – 54 years of age.
- Fifty-two (91 percent) of those fatally injured were white, non-Hispanic.
- Fifty-four (95 percent) of those fatally injured were men.

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- Thirty-three (58 percent) of those fatally injured were wage and salary workers. The remainder were self-employed.

Information regarding the census and the results of the Census of Fatal Occupational Injuries 2006 is available on the court's web site (<http://www.wcc.ne.gov/archives/osh-cfoi.htm>).